

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

John P. Hendrickson, Anita Calicchio, Riley §
Kiser, and Claudia Torralba, §
Plaintiffs, § No. 3:22-cv-02930-S-BN
v. § JURY DEMANDED
Ryan Setty-O'Connor,
Defendant. §

PLAINTIFFS' NOTICE OF REQUEST FOR CLARIFICATION

Plaintiffs John P. Hendrickson, Anita Calicchio, Riley Kiser, and Claudia Torralba file this Notice of Request for Clarification and would respectfully show the Court as follows:

1. On December 30, 2022, Plaintiff John P. Hendrickson, individually and on behalf of all others similarly situated, filed his Original Collective Action Complaint against Defendant Jared Hall and Defendant Ryan Setty-O'Connor. ECF 1.
2. On December 30, 2022, Plaintiff filed a Notice of Filing Additional Consents, attaching to it a Consent to Become a Party Plaintiff signed by Anita Calicchio. ECF 3.
3. On January 26, 2023, Plaintiff filed a Notice of Filing Additional Consents, attaching to it a Consent to Become a Party Plaintiff signed by Claudia Torralba. ECF 7.
4. On March 14, 2023, Plaintiff filed a Notice of Filing Additional Consents, attaching to it a Consent to Become a Party Plaintiff signed by Riley Kiser. ECF 10.
5. On October 12, 2023, Plaintiff filed a notice of voluntary dismissal with respect to Defendant Jared Hall. ECF 16.
6. On February 23, 2024, Plaintiffs John P. Hendrickson, Anita Calicchio, Riley Kiser, and Claudia Torralba filed an Amended Complaint against Defendant Ryan Setty-O'Connor. ECF 25.

The Notice of Electronic Filing for ECF 25 shows the Amended Complaint was filed at 9:04 p.m. CST on February 23, 2024. *See* Ex. A (highlights added).

7. Also on February 23, 2024, the Clerk received a voluminous filing (apparently via mail or hand delivery) from Defendant Setty-O'Connor. *See* ECF 26. The Notice of Electronic Filing for ECF 26 listed “Request for Dismissal of Case” in the docket text. *See* Ex. B (highlights added). It was not entered by the Clerk until February 27, 2024. *See id.*

8. Contained within the documents from Defendant Setty-O'Connor is a February 23, 2024 letter to Judge Horan that uses the singular in referring to “plaintiff,” “this individual[’]s employment,” “his employment,” and “this former employee.” *See* Ex. C at 1–2 (excerpts from ECF 26) (highlights added).

9. Also included in that document is a page from Defendant Setty-O'Connor’s bankruptcy filing listing John P. Hendrickson as having a claim for an unknown amount. *See id.* at 3.

10. Based solely on the ECF numbers, Defendant’s Motion to Dismiss would appear to have been filed *after* Plaintiffs’ Amended Complaint. But as shown above, Defendant’s Motion to Dismiss was received by the Clerk during business hours on February 23, while Plaintiffs’ Amended Complaint was filed at 9:04 p.m. on February 23. Further, Defendant’s Motion to Dismiss refers to Plaintiff in the singular, while Plaintiffs’ Amended Complaint has four named Plaintiffs.

11. Plaintiffs’ Amended Complaint was served on Defendant Setty-O’Connor via USPS Priority Mail on February 26, 2024. *See* Ex. D (highlights added).

12. Therefore, because Defendant had no notice of Plaintiffs’ Amended Complaint at the time he filed Defendant’s Motion to Dismiss, it is Plaintiffs’ understanding that Defendant’s Motion to Dismiss concerns Plaintiff’s Original Collective Action Complaint (ECF 1). Because Plaintiffs subsequently filed Plaintiffs’ Amended Complaint (ECF 25), Defendant’s Motion to Dismiss is moot.

13. Out of an abundance of caution, Plaintiffs file this notice to request clarification from and ensure the Court has the same understanding of the procedural posture of these recent filings.

Respectfully submitted,

/s/ Travis Gasper

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ATTORNEY FOR PLAINTIFFS

CERTIFICATE OF SERVICE

On March 15, 2024, I filed the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas. I hereby certify that I have served the document on all counsel and/or *pro se* parties of record by a manner authorized by Federal Rules of Civil Procedure 5(b)(2).

/s/ Travis Gasper

Travis Gasper